

Morley

# To the Lords Spirituall and Temporall of the most Honourable Assembly, of the Higher House of Parliament.]



## A Brieve of the Petitioners Cause.

Morleys Case.

**C**harles Brag, sometimes Parson of the Church of *Stalbridge*, of 27. pound 4. shillings value in the Kings Bookes, did before the Stat. of 13. *Eliz.* (as the Earle of *Castle-hauen* pretends,) Lease the Rectorie of *Stalbridge* aforesaid, to *Henry Audley* for 61. yeeres, which Lease was after the said Statute confirmed by *Geor. Lo. Audley* the now Earle of *Castle-hauens* Father, then Tenant in taile of the *Admouson* of the said Church; And confirmed also by the Lord Archbishop of *Cant.* During the time the Bishop of *Glocester* held the Bishopricke of *Bristoll* in *Commend.* within which Sea the Church of *Stalbridge* was. The said Church of *Stalbridge* fell void by Brags institution and induction into a second Benefice with Cure in An. 31. *Eliz.* and came to the King by Lapse. *Alan Bishop* Clarke 7. I A C O B I before his institution to the Church of *Stalbridge* first accepted a presentation from *S<sup>r</sup>merum Tichet* the now Earle of *Castle-hauen* and became bound in bonds of 1500. pound to the said Earle then both Patron and Lessee as aforesaid of the said Church and Rectorie vpon condition that he the said *Alan Bishop* should resigne the said Benefice of *Stalbridge* within sixe Moneths after warning giuen. And that likewise the said *Alan* should not question the said Lease so made and confirmed as aforesaid, but accept of 27. l. 5. s. *per annum*; the Benefice being worth 300. l. *per annum* at the least. *Alan Bishop* after his bonds so entred into, finding the said presentation defectiue, was by the meanes and best furtherance of the said Earle and by the mediation of Sir *Francis Bacon* now Lo. Chancellor of England presented, admitted, instituted and inducted to the said Church of *Stalbridge* by the late L. Chancelors presentation vnder the broad Seale, *Ratione lapsus*, The Patent of presentation conteining in the body thereof these words, (*Rogantes &c.*) and in the foote thereof these words. *Per Dominum Cancellarium Anglie*; And for the obteyning of the said presentation the said *Alan Bishop* made a counterfeit Certificate, in his owne hand writing, and thereby informed that the said Church of *Stalbridge* was but 17. pound value in the Kings Bookes and in the Lord Chancelors right and gift. Afterwards the said Earle and *Alan* falling out, the said Earle by a writing vnder his hand and seale bearing date the 14. day of April in the 14. yere of his Maiesties reigne &c. Warnes the said *Alan* to resigne according to the Conditions of his bonds before specified: whereupon the said *Alan* gaue way vnder his hand and Seale to any faithfull Minister that would accept of the said Benefice, and acknowledged the same to be voide, and so the said Simonic and lapse came to light. Then *Caleb Morley* in May next following vpon his Maiesties owne presentation to the said Church of *Stalbridge*, *Ratione lapsus seu aliquo alio quocunque modo*, was admitted, instituted, and inducted Parson thereof, His Patent of presentation hauing in the body thereof these words (*Mandantes &c.*) and in the foote thereof these words, *Per Breue de Priuato Sigillo*. And afterwards the now Earle of *Castle-hauens* Father, viz. *George Lord Audley* who confirmed the said Lease as aforesaid dyed.

## The Questions vpon the whole precedent matter are Two.

- I. Whether *Morley* or *Alan Bishop* be lawfull Parson of *Stalbridge*.
- II. Whether the said Lease be good against *Morley* being Parson.

To the first is answered; that the Church was at that time voide when his Maiestie presented the petitioner *Morley*, and not full (as is supposed) for *Alan Bishop*, was neuer Parson there for two Causes:

- I He the said *Alan Bishop* was for euer disabled for the same Benefice by reason of his Simonicall Contract as aforesaid, as may appeare by the Statute against Simonic as followeth. If any person shall, or doe for money, reward, gift, profit or benefit directly or indirectly, or for or by reason of any promise, agree-



ment, grant, bond, couenant, or other assurance directly or indirectly, present any person to any Benefice with Cure, that every such Presentation shall bee utterly void; And the person so corruptly taking, procuring, seeking or accepting any such Benefice, shall thereupon bee adjudged a disabled person in Law to haue or enioy the same Benefice. And the said *Alan Bishop* hath bene sentenced and depriued for the said Simonie, by seuen Reuerend Bishops, and seuen others in his Maiesties Court of High Commission.

- 2 The said *Alan Bishops* presentation is void also by deceiuing the King in his Grant; *Coke 6. Reports fol. 29. Greenes Case*. For he made a counterfeit Certificate, in his owne hand writing, that the said Parsonage was but 17. pound value in the Kings Bookes, and in the Lord Chancelors right and gift as aforesaid, and so obtained a Presentation vnder the broad Seale by the warrant of the Lord Chancellor, whereas in truth the said Parsonage is 27. pound 4. shillings value in the Kings Bookes, and therefore in the peculiar and immediate gift of his Gracious Maiestie, and beyond the Lord Chancellors power and gift.

And when the late Honourable Lord Chancellor *Egerton*, vnderstood how his Lordship had bene deluded by the said *Alan Bishops* counterfeit Certificate, and that the said Parsonage was of 27. l. 4. s. value as aforesaid, his Lordship acknowledged in open Court, that the said Grant was void, and that *Morley* was rightfull Parson of the said Benefice, and for confirmation heereof (the said Church being forcibly kept against *Morley*) his Lordship granted the Writ *De vi laicæ remouenda* to settle him in quiet possession, which possession was further also confirmed for *Morley* by a Verdict, Iudgement and Execution to the value of 20. pound, against the said Earles Bailiffe, for taking and carrying away his Tithes, in his Maiesties Court of Kings Bench.

And whereas it is alleadged that the opinions of some of the Iudges are against *Morley*; their opinions were grounded vpon a wrong Case, as making the King to present as well the said *Alan Bishop* as *Morley*, without any mention of the saide Simonie or counterfeit Certificate and suggestion, which being afterward made knowne to the now Honourable Lord Treasurer, his Lordship did acknowledge thereupon that the King was deceiued in his grant, and the grant void as aforesaid. And further how euer the pretence be, it will appeare, that it is but one of the said Iudges that gaue and holdeth the said opinion, all being done likewise, without hearing *Morley* or his learned Counsell.

And whereas it is alleadged that a verdict did passe against *Morleys* Leasee for 4. l. that was by the euidence of *Alan Bishop* the said conuicted and depriued Simonist being a principall partie, who against his Oath vpon Record in the Hon. Court of Chancery, and High Commission testified against the said *Morley*. And it was by a Iudge who should haue giuen the said *Morley* the benefit of the Law before (whereby, his Maiesties Title had neuer come in further question) but did not, being requested and required thereunto, and againe the said Iudge gaue his opinion without hearing against the King and his right & Title, &c.

The Kings grant must be taken *ad intentionem non ad deceptionem*. 1. H. 7. 13.

And if the King grant vpon false suggestion or information, this shall be taken more strongly for the King, and strictly against the Patentee.

### *Reasons in equitie against Alan Bishops Presentation by the Warrant of the Lord Chancellor.*

- 1 If this case shall be made good for *Alan Bishops* Presentation, the King and his Successors will loose their right & prærogatiue; and this will be the leading Case.
  - 2 The Lord Chancellor by the same reason may giue all the Church liuings the King hath.
  - 3 The Lord Chancelors Warrant may giue any thing the King hath.
  - 4 By the selfe same reason *meum* and *tuum* shall be all one.
  - 5 *Alan Bishop* (a depriued Simonist) shall be rewarded for his deceit, and others encouraged to doe the like.
- To the secona is Answered*, that the said Earle hath not a good Lease in Law of the said Parsonage, for these Reasons.
- 1 The said Earle can set forth no Title to the said Lease. 35. H. 6. 6. & 7.
  - 2 The Patron confirming being but Tenant in Taile, and now dead, his confirmation is determined by his death. *Littleton 107. p. 31. Ed. 3. Fitz. Tit. Grant. 61.*
  - 3 The Lord Archbishop of *Cant.* (*Sede Bristol vacante*) could not confirme but during his supposed Gardian-ship at the most. 20. Ed. 4. 2. *Rastal 514. Wards 9.*
  - 4 The said Archbishop was not then Gardian of the said Church, but the Bishop of *Glocester*, viz. *Chenev*, who then held the Bishopricke of *Bristol* in Commend.
  - 5 The reuersion being in the Crowne, the Queene viz. *Eliz.* ought likewise to haue ioyned in the Confirmation with the Patron aforesaid. *Iudged in the Dutchy.*
  - 6 The said Lease was Antedated about two yeeres before the said *Brag* came to be Parson there, that so made or Antedated the said Lease.

Yet by colour of this Lease the Gleabe lands are made away from the Church into the said

Copyholds for liues hauing but a pretended estate of 10. yeeres.

And the Petitioner *Morley* still remaining Parson of the said Church for these 5. yeeres space, hath nothing to supply the Cure, being dispossest of the profits thereof by an Iniunction giuen without hearing, in a Chamber.

